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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/550,517	10/02/2006	Klaus Schmidtke	2665-0002	3155
43624 7590 10/07/2009 DAVIDSON BERQUIST JACKSON & GOWDEY LLP 4300 WILSON BLVD., 7TH FLOOR ARLINGTON, VA 22203				
EXAMINER BRITTAIN, JAMES R				
ART UNIT		PAPER NUMBER		
3677				
MAIL DATE		DELIVERY MODE		
10/07/2009		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/550,517

Applicant(s)

SCHMIDTKE ET AL.

Examiner

JAMES R. BRITTAIN

Art Unit

3677

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 October 2006.
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1-7 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
10) ☒ The drawing(s) filed on 23 September 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/5508)
Paper No(s)/Mail Date _____

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____

DETAILED ACTION

Drawings

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, a helmet that will show the "stop elements that are both frictionally engaged as well as in positive contact with the helmet" (claim 1, lines 5-6) must be shown or the feature(s) canceled from the claim(s). No new matter should be entered. Further, the limitation "sliding elements that stretch beyond the stop elements are positioned at an offset for automatic positioning of the fastening hook in the hook receptacle when the tightening straps are tightened" (claim 1, lines 10-13) also requires the helmet to be shown, otherwise there is no basis to determine how the "automatic positioning" takes place. Similarly, the limitation "the tightening strap is orientated between the anchoring on the breathing mask and the anchoring in the hook receptacle so that a greater tensile strain acts upon the upper portion of the tightening strap than on its lower portion" (claim 7) also requires the helmet to be shown.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate

changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

The abstract of the disclosure is objected to because of the reference to "claim 1" in [0004]. Such a reference is improper as the specification serves to provide explanation of the claim terms and not the reverse. Sentences that can be used in any application serve no useful purpose. Correction is required. See MPEP § 608.01(b).

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1-7 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. The limitation "stop elements that are both frictionally engaged as well as in positive contact with the helmet" (claim 1, lines 5-6) positively recite the combination of stop

elements and helmet wherein there is frictional engagement and positive contact and there is no showing or explanation of how this takes place. The limitation "sliding elements that stretch beyond the stop elements are positioned at an offset for automatic positioning of the fastening hook in the hook receptacle when the tightening straps are tightened" (claim 1, lines 10-13) is without basis to determine how the "automatic positioning" takes place as there is no showing or explanation of what makes this uniquely "automatic" or what wouldn't be considered "automatic". The limitation "the tightening strap is orientated between the anchoring on the breathing mask and the anchoring in the hook receptacle so that a greater tensile strain acts upon the upper portion of the tightening strap than on its lower portion" (claim 7) also requires the an explanation of the configuration to be clear as it isn't apparent how this is achieved with between the helmet and mask. The remaining claims lack enablement because they depend on claims lacking enablement.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Meckes (US 6442767) in view of Schenberg (US 5598956).
Meckes (figures 1, 5) teaches a holding device for a breathing mask 4 for connecting the mask to a protective helmet 2 with fastening hooks 10 on both sides of the breathing

mask that can be hooked into hook receptacles 11 formed on the outside of the protective helmet, characterized in that the fastening hooks 10 are connected to the breathing mask 4 through an inherently length-adjustable, slack tightening strap 17 secured by strap connectors 18 to the coupling hooks 10. The difference are that it lacks stop elements that are both frictionally engaged as well as in positive contact with the helmet are formed in the area of the fastening hook to hold the fastening hook in hooked-in position, and it also lacks sliding elements that stretch beyond the stop elements are positioned at an offset for automatic positioning of the fastening hook in the hook receptacle when the tightening straps are tightened. However, Schenberg (figures 10, 15) teaches hook structure with stop elements in the form of ribs 163 that are inherently capable of providing frictional engagement and positive contact with a mating member and there is an element 128, which in the configuration shown in figure 15 that are beyond the stop elements 163, define an offset and modification of each hook would provide a plurality of sliding elements, one on each hook, and since the sliding elements 128 protrude beyond the stop elements 163 on each hook, they would provide sliding when in the configuration shown in figure 15. Therefore, it would have been obvious to provide the device of Meckes with stop elements and sliding elements that extend beyond the stop elements in view of Schenberg suggesting such structure inherently in a hook. In regard to claim 7, the configuration shown by Meckes would appear to provide such strain on the straps as much as would applicants.

Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Meckes (US 6442767) in view of Schenberg (US 5598956) as applied to claim 1 above, and further in view of Peron (FR 2707141).

Further modification of the holding device of Meckes such that the grip is ergonomically shaped would have been obvious in view of Peron (figure 2) providing an ergonomically shaped grip to the hook 4.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JAMES R. BRITTAIN whose telephone number is (571)272-7065. The examiner can normally be reached on M-F 5:30-2:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Victor Batson can be reached on (571) 272-6987. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/James R. Brittain/
Primary Examiner, Art Unit 3677

JRB